

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

4013



FROM: County Counsel/TLMA
Code Enforcement Department

SUBMITTAL DATE:
January 27, 2011

SUBJECT: Order to Abate [Grading Without a Permit, Excessive Outside Storage & Accumulated Rubbish]
Case Nos. : CV10-05341 and CV10-05342
Subject Property: 47650 Kibberly Ann Drive, Aguanga; APN: 583-200-038
District: Three

Departmental Concurrence

RECOMMENDED MOTION: Move that:

1. The Findings of Fact, Conclusions and Order to Abate in Case Nos. CV 10-05341 and CV10-05342 be approved;
2. The Chairman of the Board of Supervisors be authorized to execute the Findings of Fact, Conclusions and order to Abate in Case Nos. CV 10-05341 and CV 10-05342; and
3. The Clerk of the Board of Supervisors be authorized to record the Findings of Fact, Conclusions and Order to Abate in Case Nos. CV 10-05341 and CV 10-05342.

(Continued)

PA Fong
L. ALEXANDRA FONG, Deputy County Counsel
for PAMELA J. WALLS, County Counsel

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: *Jennifer L. Sargent*
Jennifer L. Sargent

County Executive Office Signature

Policy
 Policy
 Consent
 Consent

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: February 8, 2011
xc: Co.Co.(3); Recorder

Kecia Harper-Ihem
 Clerk of the Board
 By: *Kecia Harper-Ihem*
 Deputy

Dept's Recomm.:
 Per Exec. Ofc.:

2.15

Abatement of Public Nuisance
Case Nos.: CV10-05341 and CV10-05342 [ALLEN]
47650 Kibberly Ann Drive, Aguanga
District Three
Page 2

BACKGROUND:

On January 11, 2011, this Board received the declaration of the Code Enforcement Officer in the above-referenced matter. At the conclusion of the hearing, this Board declared the illegal grading, excess outside storage and accumulation of rubbish located on the subject property to be a public nuisance. The Board ordered the property owner to abate the violative conditions on the property and directed County Counsel to prepare the Findings of Fact, Conclusions and Order to Abate.

1 RECORDING REQUESTED BY:
2 Kecia Harper-Ihem, Clerk of the
3 Board of Supervisors
4 (Stop #1010)



5 WHEN RECORDED PLEASE MAIL TO:
6 L. Alexandra Fong, Deputy County Counsel
7 County of Riverside
8 OFFICE OF COUNTY COUNSEL
3960 Orange Street, Suite 500 (Stop #1350)
Riverside, CA 92501

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[EXEMPT'6103]

**BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE**



11 IN RE ABATEMENT OF PUBLIC NUISANCE:) CASE NOS.: CV 10-05341 and CV10-
12 [EXCESSIVE OUTSIDE STORAGE OF) 05342
13 MATERIALS, GRADING WITHOUT PERMITS)
14 AND ACCUMULATION OF RUBBISH]; APN) FINDINGS OF FACT,
15 583-200-038, 47650 KIBBERLY ANN DRIVE,) CONCLUSIONS AND ORDER TO
16 AGUANGA, COUNTY OF RIVERSIDE, STATE) ABATE NUISANCE
17 OF CALIFORNIA; PRESTON K. ALLEN AND)
18 BARBARA A. ALLEN, OWNERS.)
) [R.C.O. No. 348 (RCC Chapter 17),
) RCO No. 457 (RCC Title 15), RCO No.
) 541 (RCC Chapter 8.120) and 725
) (RCC Title 1) and Board of Supervisors
) Policy F-6]

19 The above-captioned matter came on regularly for hearing on January 11, 2011, before the
20 Board of Supervisors of the County of Riverside, State of California in the Board Room, First Floor
21 Annex, County Administrative Center, 4080 Lemon Street, Riverside, California regarding the real
22 property described 47650 Kibberly Ann Drive, Aguanga, Assessor's Parcel Number 583-200-038
23 and referred to hereinafter as "THE PROPERTY."

24 L. Alexandra Fong, Deputy County Counsel, appeared along with Brian Black, Supervising
25 Code Enforcement Officer, on behalf of the Director of the Code Enforcement Department.

26 Owner Preston K. Allen appeared. Owner's engineer also appeared and addressed the Board.

27 The Board of Supervisors received the Declaration of the Code Enforcement Officer together
28

1 accumulation of rubbish on THE PROPERTY as violations of Riverside County Ordinance Nos. 348
2 (Riverside County Code Chapter 17.16), 457 (Title 15) and 541 (Riverside County Code Chapter
3 8.120), and as a public nuisance.

4 **SUMMARY OF EVIDENCE**

5 1. Documents of record in the Riverside County Recorder's Office identify the owner of
6 THE PROPERTY as Preston K. Allen and Barbara A. Allen ("OWNERS").

7 2. Documents of title indicate that another party potentially holds a legal interest in THE
8 PROPERTY, to wit: Discover Bank ("INTERESTED PARTY").

9 3. THE PROPERTY was inspected by Code Enforcement Officers on June 29, 2010,
10 August 11, 2010, September 17, 2010, December 6, 2010 and January 7, 2011.

11 4. During each inspection, grading was observed on THE PROPERTY without permits
12 and which deviated from the natural topography.

13 5. During each inspection an accumulation of rubbish and excess outside storage was also
14 observed throughout THE PROPERTY consisting of but not limited to: appliances, wood, metal, a
15 water heater, motorcycle parts and plumbing equipment.

16 6. THE PROPERTY was determined to be in violation of Riverside County Ordinance
17 Nos. 348 (RCC Chapter 17.16), 457 (RCC Title 15) and 541 (RCC Chapter 8.120) by the Code
18 Enforcement Officer.

19 7. On July 19, 2010, a Notice of Noncompliance for the grading without permit was
20 recorded at the Riverside County Recorder's Office as instrument number 2010-0335466. On the
21 same date, a Notice of Noncompliance for the excess outside storage and accumulation of rubbish
22 was recorded at the Riverside County Recorder's Office as instrument number 2010-0335468.

23 8. On July 1, 2010, Notices of Violation were posted on THE PROPERTY. On July 13,
24 2010 and July 26, 2010, Notices of Violation for Unapproved Grading, Excess Outside Storage of
25 Materials and Accumulation of Rubbish were mailed by certified mail, return receipt requested to
26 OWNER and INTERESTED PARTY.

27 9. On November 30, 2010, a "Notice to Correct County Ordinance Violations and Abate
28 Public Nuisance" providing notice of the public hearing before the Board of Supervisors on January



1 11, 2011, was mailed by certified mail, return receipt requested, to OWNERS and INTERESTED
2 PARTY and was posted on THE PROPERTY on December 6, 2010.

3 **FINDINGS AND CONCLUSIONS**

4 WHEREFORE, the Board of Supervisors of the County of Riverside, State of California, in
5 regular session assembled on January 11, 2011, finds and concludes that:

6 1. WHEREAS, the grading without permit, excessive outside storage of materials and
7 accumulation of rubbish on the real property located at 47650 Kibberly Ann Drive, Aguanga,
8 Riverside County, California, also identified as Assessor's Parcel Number 583-200-038 violates
9 Riverside County Ordinance Nos. 348, (RCC Chapter 17.16), 457 (RCC Title 15) and 541 (RCC
10 Chapter 8.120) and constitutes a public nuisance.

11 2. WHEREAS, the OWNERS, occupants and any person having possession or control of
12 THE PROPERTY shall abate the condition by restoring THE PROPERTY to the satisfaction of the
13 Department of Building and Safety so as to prevent offsite drainage and slope erosion in strict
14 accordance with all Riverside County Ordinances, including but not limited to Riverside County
15 Ordinance No. 457, within ninety (90) days.

16 3. WHEREAS, the OWNERS ARE HEREBY FURTHER NOTICED that a five (5)
17 year hold on the issuance of building permits and land use approvals may be placed on THE
18 PROPERTY. Upon restoration of THE PROPERTY and payment of the lien, the five (5) year hold
19 on the building permit issuance and land use approvals will be released.

20 4. WHEREAS, the OWNERS, occupants and any other person having possession or
21 control of THE PROPERTY shall abate the accumulation of rubbish and excessive outside storage of
22 materials by removing and disposing of all rubbish and excessive outside storage on THE
23 PROPERTY in strict accordance with all Riverside County Ordinances, including but not limited to
24 Riverside County Ordinance Nos. 348 and 541 within ninety (90) days.

25 5. WHEREAS, the OWNERS ARE HEREBY FURTHER NOTICED that the time
26 within which judicial review of the administrative determinations made herein must be sought is ninety
27 (90) days from the posting and mailing of the Findings of Fact, Conclusions and Order To Abate
28 Nuisance, and is governed by California Code of Civil Procedure Section 1094.6.

2011-0064003
02/03/2011 10:40A
3 of 6



ORDER TO ABATE NUISANCE

1
2 IT IS THEREFORE ORDERED that the unapproved grading on THE PROPERTY located
3 47650 Kibberly Ann Drive, Aguanga, Riverside County, California, also identified as Assessor's
4 Parcel Number 583-200-038 be abated by the OWNERS, and anyone having possession or control of
5 THE PROPERTY, by restoring THE PROPERTY to the satisfaction of the Department of Building
6 and Safety so as to prevent offsite drainage and slope erosion in strict accordance with all Riverside
7 County Ordinances, including but not limited to Riverside County Ordinance No. 457, within ninety
8 (90) days of the posting and mailing of this Order to Abate Nuisance.

9 IT IS FURTHER ORDERED that if unapproved grading on THE PROPERTY is not restored
10 to the satisfaction of the Department of Building and Safety so as to prevent offsite drainage and
11 slope erosion in strict accordance with all Riverside County Ordinances, including but not limited to
12 Riverside County Ordinance No. 457, within ninety (90) days of the posting and mailing of this Order
13 to Abate Nuisance, the unapproved grading may be abated by representatives of the Riverside County
14 Code Enforcement Department, a contractor, or the Sheriff's Department upon receipt of the owner's
15 consent or a Court Order, where necessary, under applicable law authorizing entry onto THE
16 PROPERTY.

17 IT IS FURTHER ORDERED that the accumulation of rubbish and excessive outside storage
18 of materials on THE PROPERTY be abated by OWNERS or anyone having possession or control of
19 THE PROPERTY by removing and disposing of all rubbish and excessive outside storage of materials
20 on THE PROPERTY in strict accordance with all Riverside County Ordinances, including but not
21 limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.16) and 541 (RCC Chapter
22 8.120), within ninety (90) days of the posting and mailing of this Order to Abate Nuisance.

23 IT IS FURTHER ORDERED that if the accumulation of rubbish and excessive outside
24 storage of materials is not removed and disposed of in strict accordance with all Riverside County
25 Ordinances, including but not limited to Riverside County Ordinance Nos. 348 (RCC Chapter 17.16)
26 and 541 (RCC Chapter 8.120) within ninety (90) days of the date of this Order to Abate Nuisance,
27 the accumulation of rubbish and excessive outside storage of materials shall be abated and disposed of
28 by representatives of the Riverside County Code Enforcement Department, a contractor or the





1 Sheriff's Department upon receipt of an owner's consent or a Court Order when necessary under
2 applicable law.

3 IT IS FURTHER ORDERED that reasonable abatement costs, after notice and opportunity
4 for hearing, shall be imposed as a lien on THE PROPERTY, which may be collected as a special
5 assessment against THE PROPERTY pursuant to Government Code section 25845 and Riverside
6 County Ordinance Nos. 457 (Title 15), 348 (Title 17), 541 (Title 8) and 725 (Title 1). Under
7 Riverside County Ordinance 725, "abatement costs" means "any costs or expenses reasonably related
8 to the abatement of conditions which violate County Land Use Ordinances, and shall include, but not
9 be limited to, enforcement, investigation, collection and administrative costs, attorneys fees, and the
10 costs associated with the removal or correction of the violation." Reasonable abatement costs
11 accrued by the Code Enforcement Department will be recoverable from the property owner(s) even if
12 THE PROPERTY is brought into compliance within ninety (90) days of the date of this Order to
13 Abate Nuisance.

14 Dated: February 8, 2011

COUNTY OF RIVERSIDE

15
16 By Bob Buster
17 Bob Buster
18 Chairman, Board of Supervisors

19 ATTEST:

20 KECIA HARPER-IHEM

21 Clerk to the Board

22 By [Signature]

23 Deputy

24 (SEAL)



25 L:\Code Enforcement\Abatements\2010\2010\CV10-05341 & CV10-05342\348, 457, 541 FOF.DOC

FORM APPROVED COUNTY COUNSEL
BY: [Signature] DATE: 1/26/11
L. ALEXANDRA FONG



**LARRY W. WARD
COUNTY OF RIVERSIDE
ASSESSOR-COUNTY CLERK-RECORDER**

Recorder
P.O. Box 751
Riverside, CA 92502-0751
(951) 486-7000

<http://riverside.asrclkrec.com>

CERTIFICATION

Pursuant to the provisions of Government Code 27361.7, I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document:

(Print or type the page number(s) and wording below):

CLARIFICATION OF THE SEAL for the Riverside County Board of Supervisors
(embossed on document)



Date:

2-8-11

Signature:

Karen Barton

Print Name:

Karen Barton, Board Assistant, Riverside County Clerk of the Board



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PROOF OF SERVICE
Case Nos. CV10-05341 & CV10-05342

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I, Brenda Peeler, the undersigned, declare that I am a citizen of the United States and am employed in the County of Riverside, over the age of 18 years and not a party to the within action or proceeding; that my business address is 3960 Orange Street, Suite 500, Riverside, California 92501-3674.

That on March 15, 2011, I served the following document(s):

FINDINGS OF FACT, CONCLUSIONS AND ORDER TO ABATE NUISANCE

by placing a true copy thereof enclosed in a sealed envelope(s) addressed as follows:

**OWNERS OR INTERESTED PARTIES
(SEE ATTACHED NOTICE LIST)**

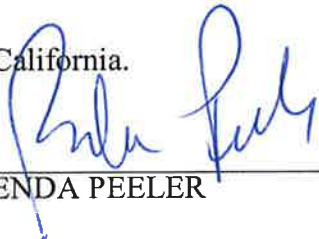
XX **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.** I am "readily familiar" with the office's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Riverside, California, in the ordinary course of business.

— **BY PERSONAL SERVICE:** I caused to be delivered such envelope(s) by hand to the offices of the addressee(s).

XX **STATE - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.**

— **FEDERAL - I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.**

EXECUTED ON March 15, 2011, at Riverside, California.



BRENDA PEELER



**CODE ENFORCEMENT DEPARTMENT
COUNTY OF RIVERSIDE**

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

March 17, 2011

RE CASE NO: CV1005341

I, Ariana Meza, hereby declare:

I am employed by the Riverside County Code Enforcement Department; that my business address is 39493 Los Alamos Road, Suite #A, Murrieta, California 92563 .

That on 3/17/2011 at 11:06am, I securely and conspicuously posted Findings of Fact, Conclusions and Order to Abate Nuisance, Notice List and Proof of Service. at the property described as:

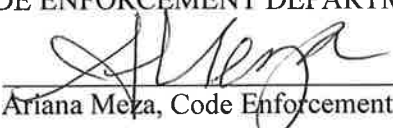
Property Address: 47650 KIBBERLY ANN DR, AGUANGA

Assessor's Parcel Number: 583-200-038

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on March 17, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Ariana Meza, Code Enforcement Technician



CODE ENFORCEMENT DEPARTMENT COUNTY OF RIVERSIDE

GLENN BAUDE
Director

AFFIDAVIT OF POSTING OF NOTICES

March 17, 2011

RE CASE NO: CV1005342

I, Ariana Meza, hereby declare:

I am employed by the Riverside County Code Enforcement Department; that my business address is 39493 Los Alamos Road, Suite #A, Murrieta, California 92563 .

That on 03/17/2011 at 11:06am, I securely and conspicuously posted Findings of Fact, Conclusions and Order to Abate Nuisance, Notice List and Proof of Service. at the property described as:


Property Address: 47650 KIBBERLY ANN DR, AGUANGA

Assessor's Parcel Number: 583-200-038

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on March 17, 2011 in the County of Riverside, California.

CODE ENFORCEMENT DEPARTMENT


By: Ariana Meza, Code Enforcement Technician

NOTICE LIST

Subject Property: 47650 Kibberly Ann Drive, Aguanga
Case Nos.: CV 10-05341 & CV 10-05342; APN: 583-200-038; District 3

PRESTON K. ALLEN, JR.
BARBARA A. ALLEN
47650 KIBBERLY ANN DRIVE
AGUANGA, CA 92536

DISCOVER BANK
C/O ESKANOS & ADLER
2325 CLAYTON RD.
CONCORD, CA 94520

NOTICE LIST

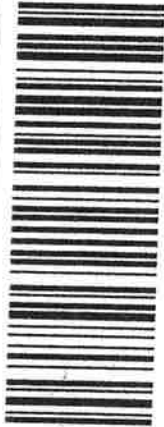
Subject Property: 47650 KIBBERLY ANN DRIVE, AGUANGA

Case No.: CV10-05341 & CV10-05342

APN: 583-200-038; District 3

Office of County Counsel
3960 Orange Street, Suite 500
Riverside, CA 92501

CERTIFIED MAIL™



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MAILED FROM ZIP CODE 92501



**Not Deliverable as Addressed
Unable to Forward**

~~DISCOVER BANK
C/O ESKANOS & ADLER
2325 CLAYTON RD
CONCORD CA 94520~~



NOTICE LIST

Subject Property: 47650 KIBBERLY DRIVE, AGUANGA
Case No.: CV10-05341 & CV10-05342
APN: 583-200-038; District 3

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee <i>X Preston K Allen</i></p> <p>B. Received by (Printed Name) <i>Preston K Allen</i></p> <p>C. Date of Delivery <i>FEB 26 2004</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> 
1. Article Addressed to: PRESTON K ALLEN JR BARBARA A ALLEN 47650 KIBBERLY ANN DRIVE AGUANGA CA 92536	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
<i>CV10-05341 & CV10-05342 (Allen) FFZ</i>	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
2. Article Number (Transfer from service label)	7010 1670 0001 7232 1411
PS Form 3811, February 2004	Domestic Return Receipt 102595-02-M-1540